



DECLARATION AND PETITION

We, Marie K. WALSH (a resident of North Logan, Utah) and Charles E. CARPENTER (a resident of Wellsville, Utah), declare: that we are citizens of the United States of America; that our residences and post office addresses are 1907 North 3805 East, North Logan, Utah 84341 and 2671 West 5700 South, Wellsville, Utah 84339, respectively; that we verily believe we are the original, first, and joint inventors of the subject matter of the invention or discovery entitled TEXTURED WHEY PROTEIN PRODUCT AND METHOD, for which a patent is sought and which is described and claimed in the specification filed on August 19, 2003; and granted Serial No. 10/644,604; that we have reviewed and understand the contents of the above-identified specification, including the claims; and that we acknowledge the duty to disclose information which is material to the examination of this application in accordance with Section 1.56(a) of Title 37 of the Code of Federal Regulations.

We hereby claim the benefit under Section 120 of Title 35 of the United States code of the earlier filed application Serial No. 09/596,191, filed June 16, 2000, which issued as U.S. Patent No. 6,607,777 on August 19, 2003, which claimed the benefit under Section 119(e) of Title 35 of the United States code of the earlier filed application Serial No. 60/140,280, filed June 18, 1999; and, insofar as the subject matter of each of the claims of these applications is not disclosed in the earlier filed pending

application in the manner provided by the first paragraph of Section 112 of Title 35 of the United States Code, we acknowledge the duty to disclose material information, as defined in Section 1.56 of Title 37 of the Code of Federal Regulations, which occurred between the filing dates of the earlier filed applications and the filing date of this application.

We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

Wherefore, we pray that Letters Patent be granted to us for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at Logan, Utah, this
(City) (State)

15 day of October, 2003.

INVENTOR:

Marie K. Walsh
Marie K. WALSH
1907 North 3805 East
North Logan, Utah 84341

Signed at Logan, Utah, this
(City) (State)

16 day of October, 2003.

INVENTOR:

Charles E. Carpenter
Charles E. CARPENTER
2671 West 5700 South
Wellsville, Utah 84339

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ATTORNEY DOCKET NO. T9105.C

POWER OF ATTORNEY

Utah State University hereby appoints as its attorneys and/or patent agents, Grant R. Clayton, Registration No. 32,462; Alan J. Howarth, Registration No. 36,553; Karl R. Cannon, Registration No. 36,468; Clifford B. Vaterlaus, Registration No. 47,261; Terrence J. Edwards, Registration No. 50,254; and Brett J. Davis, Registration No. 46,655; all with full power of substitution and revocation, to prosecute this application entitled TEXTURED WHEY PROTEIN PRODUCT AND METHOD, filed on August 19, 2003, and granted Serial No.10/644,604; and to transact all business in the Patent and Trademark Office connected therewith.

Please direct all future correspondence in connection with this application to:

Customer No. 20450

Please direct all telephonic and facsimile communications to:

Alan J. Howarth
Telephone: (801)255-5335
Facsimile: (801)255-5338

Please reference the below provided attorney docket number in all communications:

T9105.C

Utah State University is the assignee of record of the entire interest and a statement under 37 C.F.R. § 3.73(b) is enclosed.

Signed at Logan, Utah, this
(City) (State/Country)

20 day of October, 2003.

Utah State University

By: 

Printed Name: Steven J. Kubisen

Title: Director of Technology
Management and Commercialization